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**FILED**

APR 13 2011

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA

12 Plaintiff,

13 vs.

14 DANIEL ZAPATA,

15 Defendant.

Case No. CR-10-70815-PSG

16 STIPULATION AND ~~PROPOSED~~ ORDER TO  
17 CONTINUE PRELIMINARY HEARING AND  
18 TOLL TIME UNTIL JUNE 2, 2011 at 9:30 am

19 The parties, including the defendant, hereby stipulate, subject to Court approval,  
20 that the preliminary hearing date currently set for April 14, 2011 at 1:30 p.m., be vacated,  
21 and the Court set a new date of June 2, 2011 at 9:30 p.m.

22 1. The parties, Daniel Zapata and the government, acting through their  
23 respective counsel, hereby stipulate, subject to the Court's approval, that the preliminary  
24 hearing date currently set for April 14, 2011 at 1:30 p.m., be vacated and that the Court set  
25 a new hearing date of June 2, 2011, at 9:30 a.m.

26 2. The parties are requesting the continuance of the hearing date pending  
27 completion of settlement negotiations which are progressing but not yet complete. 3.

1           3. The parties further agree and stipulate that time for preliminary hearing  
2 provided by Fed. R. Crim. Proc. 5.1(c) should be tolled until June 2, 2011, at such time  
3 the 14 day clock will commence to run. Accordingly, Mr. Daniel Zapata and the  
4 government agree that granting the requested exclusion of time will serve the ends of  
5 justice, and that the ends of justice outweigh the interest of the public and the defendant in  
6 a speedy trial.

7  
8           IT IS SO STIPULATED.

9  
10           JOSEPH P. RUSSONIELLO  
11           United States Attorney

12           Dated: April 13, 2011

13           /S/  
14           THOMAS M. O'CONNELL  
15           Assistant United States Attorney

16           Dated: April 13, 2011

17           /S/  
18           WM. MICHAEL WHELAN, JR.  
19           Attorney for defendant DANIEL

20           ZAPATA

## 21           ORDER

22           Good cause appearing, and by stipulation of the parties in the above-captioned  
23 matter, it is hereby ordered that the hearing shall be continued from April 14, 2011 to June  
24 2, 2011 at 9:30 a.m., and further ordered that the time for preliminary hearing provided by  
25 Fed. R. Crim. P. 5.1(c) should be tolled until June 2, 2011, at which time the 14-day clock  
26 shall commence to run.

27           IT IS SO ORDERED.

28           Date: April 13, 2011

  
PAUL S. GREWAL  
United States Magistrate Judge